IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINTH DAY OF NOVEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION No. 23947 of 2005

Between:

M.Surender Ra

..... PETITIONER

AND

The Regional Transport Officer,

Warangal, Warangal District and 2 others

.....RESPONDENTS

ORDER:

Seeking a Mandamus, declaring the impugned notice cum order issued by the 2nd respondent in Cr.No.1868/2005/PE/B2, dated 29.10.2005 directing the petitioner to furnish the Bank Guarantee/FDR for Rs.2,70,000/- from any Nationalized Bank as illegal and arbitrary, the present writ petition is filed.

Heard the learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise.

The petitioner submits that he is the owner of the TATA INDIGO Car bearing No.AP 36 N 2223 Model 2005 and he has purchased the said car after obtaining finance payable in five years in monthly instalments. On 23.09.2005 and about 11.30 p.m. the car was seized by the

3rd respondent when it was driven by his driver Palaboina Srinivas on the allegation that the driver was found in possession of two boxes each containing 48 bottles of Bag Piper whisky bottles each 180 ml. and one Nookala Narender was also present along with the driver. The Panchanama does not disclose any allegations against the petitioner about his knowledge of transporting liquor bottles by his driver or by another person in his vehicle. The learned counsel for the petitioner submits that the in the absence of any averment in the panchanama against the petitioner, the vehicle is not liable to be confiscated. It is stated that the petitioner is not in a position to furnish bank guarantee for Rs.2,70,000/- from any Nationalized Bank as directed by the

2nd respondent through the impugned notice as his business was completely collapsed because of heavy rains and over flow of rivers. If

the vehicle is retained with the 3rd respondent it will be spoiled for the exposure of sun and rain.

Having regard to the facts and circumstances, as explained by the petitioner, I deem it appropriate to dispose of the writ petition, with a direction to the 2nd respondent to

release the offending vehicle to the petitioner on furnishing Bank Guarantee for a sum of Rs.70,000/- (Rupees seventy thousand only) and also furnishing third party security for a sum of Rs.2,00,000/- (Rupees two lakh only), and on such release, the petitioner shall produce the vehicle before the 2nd respondent during pendency of confiscation proceedings as and when required without any alternations or encumbrances.

With the above observations, the Writ Petition is disposed of. No order as to costs.

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V.ESWARAIAH,J

Dated: 09.11.2005

Dsr